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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/335,608	06/18/1999	TIMOTHY J. MOULSLEY	PHB-34-257	6666
24737	7590	05/20/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			HYUN, SOON D	
			ART UNIT	PAPER NUMBER

2663

DATE MAILED: 05/20/2004

*13*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/335,608

Applicant(s)

MOULSLEY, TIMOTHY J.

Examiner

Soon-Dong Hyun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-17 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-17 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's arguments with respect to claims 1, 2, 4-7, 9-17, and 21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities.

In claim 9, line 2, "jury" should be changed to -- during --.

In claim 4, line 2, "and" should be changed to -- the --.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear whether a base station (a first station) and a mobile station (a second station) have the same circuitry of FIG. 1. If the base station has the circuitry of FIG. 1, it is not clear whether the base station has the analogue speech input (12) and the speech coder (16) which converts the analogue speech signal into sampled digital speech data with reference to the specification page 4, line 14-26.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 6, 7, 9-13, 15-17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamalainen et al (U.S. Patent No. 6,477,176) in view of Feldman (U.S. Patent No. 6,393,000).

Regarding claims 1, 2, 6, and 9-11, Hamalainen discloses a telecommunication system suitable for transmitting real-time data (speech) and non-real time packet data, comprising:

a first (a mobile communication system terminal, FIG. 1) and a second communication station (a MSC in FIG. 8a or a BSC in FIG. 8b);

a dual mode channel for communication of both the real time and the non-real time data from the first to the second station, wherein the first station comprises a first transceiver which is operable to transmit both the real-time and the non-real-time data, the second station comprises a second transceiver which is operable to receive the real-time and/or the non-real-time data (col. 3, lines 29-67), the first station further comprises a controller (10) for generating an output data stream (FIG. 3) comprising the real-time data (speech signal), the controller also allocating non-real-time packet data (data signal) to the output data stream when the data rate is of the real-time is less than the full capacity of the dual mode channel, i.e., the terminal has no speech information to transmit (DTX);

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the first station comprises a speech coding system (speech processing circuit 3) which prepares the speech data for transmission from a speech input (2); and

the controller receives timing information from a VAD 4(Voice Activity Detector) indicating the time of interruptions in the speech data stream (col. 3, lines 29-67).

However, Hamalainen differs from the present application in that the controller receives the timing information from the VAD, while the present application receives it from the speech coding system.

Feldman teaches a speech coder (10 in FIG. 2) for a method of transmission of data during absence of speech signal, wherein a VAD is incorporated into the coder.

Those of skill in the art would have been motivated by Feldman to integrate the VAD (4) of Hamalainen into the speech coding system (speech processing circuit 3) to reduce a occupying space by combining the two circuitries.

Therefore, it would have been obvious to one having ordinary skill in the art for the controller of Hamalainen to receive the timing information from the speech processing circuit integrated with the VAD (speech coding system).

Regarding claims 4 and 7, Hamalainen further discloses that the terminal comprises a buffer (9) for storing the non-real-time packet data for transmission.

Regarding claims 12 and 13, Refer to the discussion for the claim 1.

However, Hamalainen does not explicitly teach that the data from a computer (6) is multimedia. It will be apparent to those of skill in the art that the computer could transmit and receive multimedia such as image, video and data.

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Therefore, it would have been obvious to one having ordinary skill in the art to transmit a first type (video) from the computer, second type (speech) from a microphone (1) and third type data (data) from the computer.

Regarding claim 15, Hamalainen discloses a receiving method (FIG. 2) comprising:  
receiving a combined data from a transmission channel (FIG. 2);  
demodulating the data stream by a receiver (13); reading frame header to determine which frames contain packet data and which frames contain speech data (FIG. 3);  
reconstituting the speech and packet data; and  
providing the speech data to a speech decoder(3) and packet data output signal at distinct output devices . See col. 4, lines 1-10.

Regarding claims 16 and 21, refer to the discussion for the claim 1. Hamalainen further discloses that invention is generally implemented in GSM (TDMA). See col. 6, lines 62-65.

Regarding claim 17, refer to the discussion for the claim 16. According to the GSM standard, information is transmitted in a format of multiple time frames comprising a plurality of time slots (time segments). Therefore, real-time data (speech) is transmitted in the DTX mode and the non-real time data is transmitted when speech data is not available through the time slots, i.e., allocating the real-time data and non-real time packet data in variable proportions to multiple time segments within a time frame as recited in the claim

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamalainen et al (U.S. Patent No. 6,477,176) and Feldman (U.S. Patent No. 6,393,000) as applied to claim 1 above, and further in view of Gudmundson (U.S. Patent No. 5,341,397).

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Regarding claim 14, refer to the discussion for the claim 1.

However, Hamalainen discloses that the invention is generally implemented in GSM (TDMA) and thus, does not explicitly teach that the system could be applicable on a CDMA transmission method. Gudmundson discloses a DTX on a CDMA transmission system.

Those of skill in the art would have been motivated to apply a CDMA protocol using a single spreading code to each mobile for the DTX of Hamalainen to take advantage of using the CDMA such as increasing the system capacity and reducing interference. Therefore, it would have been obvious to one having ordinary skill in the art to apply a CDMA protocol to the DTX of Hamalainen.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon-Dong Hyun whose telephone number is (703) 305-4550.

The examiner can normally be reached on Monday-Friday from 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen, can be reached on (703) 308-5340.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

9. Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

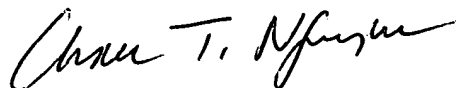
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Or faxed to: 703-872-9306 for formal communications intended for entry with a label of  
"OFFICIAL" and for informal or draft communications with a label of "PROPOSED" or  
"DRAFT" (attn: Art Unit 2663, Soon-Dong Hyun).

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S. Hyun

05/13/2004



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